

Message Text

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PAGE 01 STATE 040350

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ORIGIN EB-07

INFO OCT-01 ARA-06 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOTe-00 INR-07 NSAE-00 FAA-00 L-02 PA-01 PRS-01

USIE-00 INRE-00 /027 R

DRAFTED BY EB/AN:AJRIMAS:DAP

APPROVED BY EB/OA:MHSTYLES

ARA/EP - F. CORRY

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FM SECSTATE WASHDC

TO AMEMBASSY LIMA IMMEDIATE

INFO AMEMBASSY BUENOS AIRES

AMEMBASSY LA PAZ

AMEMBASSY QUITO

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E.O. 11652:N/A

TAGS: EAIR, PE

SUBJECT: CIVAIR: DISPUTE WITH PERU

REF: STATE 039617

1. PER PARA 5 REFTel, CAB WILL ISSUE PRESS RELEASE TOGETHER WITH SHOW CAUSE ORDER, 1100 EST, FEBRUARY 24, 1975. TEXT OF PRESS RELEASE FOLLOWS:

"THE CIVIL AERONAUTICS BOARD TODAY DIRECTED INTERESTED PERSONS TO SHOW CAUSE WHY IT SHOULD NOT CANCEL THE FOREIGN AIR CARRIER PERMIT HELD BY THE PERUVIAN AIRLINE, AEROPERU (EMPRESA DE TRANSPORTES AERO DE PERU).

"UNDER THE SHOW CAUSE PROCEDURES BEING USED, INTERESTED
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PAGE 02 STATE 040350

PARTIES HAVE UNTIL MARCH 17 TO FILE OBJECTIONS TO THE IS-

SUANCE OF AN ORDER WHICH WOULD MAKE FINAL THE TENTATIVE FINDINGS AND CONCLUSIONS MADE IN TODAY'S ORDER.

"THE BOARD SAID THE UNDERLYING FOUNDATION FOR THE GRANT OF A FOREIGN AIR CARRIER PERMIT TO AEROPERU RESTS ON THE ADHERENCE BY PERU TO THE TERMS OF THE UNITED STATES-PERU BILATERAL AIR TRANSPORT AGREEMENT, AND SINCE PERU HAS

DENIED UNILATERALLY THOSE RIGHTS TO THE U.S. CARRIER DESIGNATED UNDER THE AGREEMENT, BRANIFF AIRWAYS, THE BOARD FOUND THAT THE FOUNDATION FOR THE GRANT OF A PERMIT TO AEROPERU NO LONGER EXISTS. THE BOARD THEREFORE TENTATIVELY FOUND IN ITS SHOW CAUSE ORDER THAT CANCELLATION OF AEROPERU'S PERMIT WOULD BE IN THE PUBLIC INTEREST.

"AEROPERU'S PERMIT ENABLES IT TO CARRY PASSENGERS, CARGO AND MAIL OVER A ROUTE BETWEEN (1) POINTS IN PERU; THE INTERMEDIATE POINTS GUAYAQUIL AND QUITO, ECUADOR; BOGOTA AND CALI, COLOMBIA; PANAMA CITY, PANAMA; CARACAS, VENEZUELA, AND MIAMI, FLORIDA, AND THE TERMINAL POINT MONTREAL, CANADA; AND (2) POINTS IN PERU; THE INTERMEDIATE POINTS GUAYAQUIL, ECUADOR, AND MEXICO CITY, AND THE TERMINAL POINT LOS ANGELES, CALIFORNIA. AEROPERU ALSO CAN OPERATE CHARTER TRIPS AND CAN OPERATE TO THE UNITED STATES WITH AS MANY FLIGHTS AND WHATEVER COMBINATION OF NAMED INTERMEDIATE POINTS IT DESIRES AND USING WHATEVER TYPE OF AIRCRAFT IT CHOOSES.

"IN THE OPERATING PERMITS ISSUED BRANIFF BY THE GOVERNMENT OF PERU THE SCHEDULED SERVICES AUTHORIZED ARE BETWEEN SPECIFIED POINTS IN THE UNITED STATES AND LIMA, BY WAY OF NAMED INTERMEDIATE POINTS, AND BEYOND LIMA TO NAMED POINTS. THE PERMITS SPECIFY THE NUMBER OF FLIGHTS, ITINERARIES AND TYPE OF EQUIPMENT. BRANIFF ALSO MUST OBTAIN PRIOR APPROVAL FROM PERU'S AERONAUTICAL AUTHORITIES BEFORE IT CAN MAKE ANY CHANGES IN ITS OPERATIONS.

"BRANIFF'S OPERATING PERMIT TO PERU WAS TO EXPIRE IN JUNE, 1975 BUT IN APRIL, 1974, THE GOVERNMENT OF PERU CANCELED THE BRANIFF PERMIT UNDER A DECREE THAT PROVIDED LIMITED OFFICIAL USE

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PAGE 03 STATE 040350

FOR THE CANCELLATION OF ALL OPERATING PERMITS WHOSE TERMS HAD RUN LONGER THAN THREE YEARS. PERUVIAN AUTHORITIES TOLD BRANIFF THAT RENEWAL OF ITS PERMIT WAS CONTINGENT ON THE EXISTENCE OF "REAL RECIPROCITY" WHICH THEY DEFINED AS THE SAME NUMBER OF FLIGHTS BEING OPERATED BY THE U.S. CARRIER AND AEROPERU. IN THE EVENT THAT DID NOT EXIST, THE PERMIT RENEWAL WAS CONTINGENT ON THE U.S. CARRIER PROVIDING "EFFECTIVE COMPENSATION," EITHER IN THE FORM OF

PAYMENTS OF 20 PERCENT OF BRANIFF'S RECEIPTS ON CERTAIN
ROUTE SECTORS OR IN THE FORM OF TECHNICAL OR OTHER
ASSISTANCE.

"A BRANIFF REQUEST IN MAY, 1974 FOR TWO ADDITIONAL FLIGHTS
TO PERU WAS TURNED DOWN BY THAT GOVERNMENT AND IN OCTOBER,

THE GOVERNMENT OF PERU ISSUED BRANIFF A NEW PERMIT-
SCHEDULED TO EXPIRE FEBRUARY 28, 1975, WHICH REDUCED THE
NUMBER OF FLIGHTS WHICH BRANIFF COULD OPERATE BETWEEN THE
UNITED STATES AND PERU AND BEYOND. BRANIFF ALSO MUST
FOLLOW A PRESCRIBED ITINERARY ON THE REMAINING FLIGHTS.

"IN SUBSEQUENT CONSULTATIONS WITH REPRESENTATIVES OF
THE PERUVIAN GOVERNMENT, REPRESENTATIVES OF THE U.S. MADE
CLEAR THAT PERU'S UNILATERALLY IMPOSED RESTRICTIONS
WERE A VIOLATION OF THE BILATERAL AGREEMENT. MEANWHILE,
STARTING FEBRUARY 1, BRANIFF CONDUCTED ITS REDUCED
OPERATIONS UNDER THE TERMS OF ITS NEW PERMIT, BUT THE
U.S. POINTED OUT THAT BRANIFF WAS CONTINUING ITS SERVICES
ONLY TO MINIMIZE THE IMPACT ON THE TRAVELING PUBLIC AND
THAT ITS ACTIONS DID NOT CONSTITUTE ACCEPTANCE BY THE
UNITED STATES OF THE ACTIONS TAKEN BY THE GOVERNMENT OF
PERU.

"THE BOARD SAID PERU HAS DENIED BRANIFF ITS LAWFUL RIGHTS
UNDER THE BILATERAL AGREEMENT AND THE CAB THEREFORE FINDS
THAT THE FOUNDATION FOR GRANTING AEROPERU A PERMIT NO
LONGER EXISTS."

2. EMBASSY MAY PROVIDE PRESS RELEASE TO INTERESTED
PARTIES ON REQUEST, BUT SHOULD NOT VOLUNTEER IT TO
PERUVIAN PRESS IN VIEW OUR INTENTION TO PLAY CAB ORDER
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PAGE 04 STATE 040350

IN LOW KEY. KISSINGER

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